

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CALVIN BURKE,¹

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Plaintiff,

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v.

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No. 4:14CV2107 RLW

ST. LOUIS CITY JAILS, et al.,

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Defendants,

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MEMORANDUM AND ORDER

This matter is before the Court for review of plaintiff's complaint under 28 U.S.C. § 1915(e). Plaintiff, a prisoner at the Eastern Reception Diagnostic and Correctional Center, sues defendants under 42 U.S.C. § 1983 for unconstitutional conditions of confinement.

Standard of Review

Under 28 U.S.C. § 1915(e), the Court is required to dismiss a complaint filed in forma pauperis if it is frivolous, malicious, or fails to state a claim upon which relief can be granted. To state a claim for relief under § 1983, a complaint must plead more than "legal conclusions" and "[t]hreadbare recitals of the elements of a cause of action [that are] supported by mere conclusory statements." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). A plaintiff must demonstrate a plausible claim for relief, which is more than a "mere possibility of misconduct." *Id.* at 679. "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 678.

¹ The Clerk has mistakenly docketed defendant Tom Raye as a plaintiff.

The Complaint

Plaintiff alleges that defendants retaliated against him for filing grievances, exposed him to unconstitutional strip searches, and punished him in violation of his Eighth Amendment rights. Plaintiff sues defendants in their official and individual capacities.

Discussion

Naming a government official in his or her official capacity is the equivalent of naming the government entity that employs the official, in this case the State of Missouri. *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989). “[N]either a State nor its officials acting in their official capacity are ‘persons’ under § 1983.” *Id.* As a result, the Court will dismiss plaintiff’s official-capacity claims.

Plaintiff’s claim against the St. Louis City Jails is legally frivolous because the Jails are not suable entities. *Ketchum v. City of West Memphis*, Ark., 974 F.2d 81, 82 (8th Cir. 1992) (departments or subdivisions of local government are “not juridical entities suable as such.”). So, the Jails are dismissed as well.

The Court will direct the Clerk to serve process on defendants in their individual capacities.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s official-capacity claims are **DISMISSED**.

IT IS FURTHER ORDERED that defendant St. Louis City Jails is **DISMISSED**.

IT IS FURTHER ORDERED that the Clerk is directed to docket Tom Raye as a defendant in this action rather than as a plaintiff.

IT IS FURTHER ORDERED that the Clerk is directed to serve process on defendants in their individual capacities.

Dated this 25th day of September, 2015.



RONNIE L. WHITE
UNITED STATES DISTRICT JUDGE